STATEMENT BY

MARK ROTH
GENERAL COUNSEL
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE

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REGARDING

AN EXPANSION OF AUTHORITY TO DOWNSIZE
FEDERAL AGENCIES AND FUNCTIONS

ON

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Mr. Chairman and Members of the House Government Reform Committee:

On behalf of the American Federation of Government Employees, AFL-CIO, which represents 600,000 federal workers who serve the American people across the nation and around the world, I thank you for the opportunity to testify today before the House Government Reform Committee on efforts to allow the executive branch expanded authority to downsize the federal government. National President Bobby L. Harnage, Sr., regrets that his schedule would not allow him to appear this morning and participate in this important hearing.

AFGE strongly opposes an expansion of such authority because the traditional legislative process already allows lawmakers and policymakers sufficient opportunities to downsize the federal government. Moreover, allowing the executive branch expanded authority to downsize would deprive the legislative branch of its prerogative to carefully review any downsizing proposals. Although an expansion of the executive branch's downsizing authority usually finds favor with lawmakers and policymakers who also support the establishment of a downsizing commission, I will generally limit my remarks to references to the lapsed expanded downsizing authority established in 5 U.S.C. 901 *et. seq.*

That expanded downsizing authority essentially allows officials of the executive branch to submit proposals to, within certain limits, consolidate and abolish agencies and functions they believe "may not be necessary for the efficient conduct of the Government." The proposals are automatically introduced as resolutions and referred to the House Government Reform and Senate Governmental Affairs Committees. Failure of a committee to report a resolution within 75 days automatically places the resolution on the calendar. Any member may move to proceed to consideration of the resolution. That motion may not be debated, postponed, or reconsidered. Debate is limited to no more than ten hours. A motion to limit debate is in order and not debatable. However, a motion to postpone, proceed to other business, recommit, or reconsider is not in order. The resolution cannot be amended.

Interest in expanding the executive branch's authority to downsize the federal government has picked up in some quarters because of the recent passage of the budget resolution in the House of Representatives that requires the House Government Reform Committee to impose cuts of $38.3 billion over the next ten years in programs under its jurisdiction. The cuts are necessary to, in significant part, pay for the Administration's ten-year, $726 billion tax cut package, which has been much criticized for showering its benefits disproportionately on the wealthiest Americans. As a result of a colloquy on the floor, it was established that "it is possible to meet the savings targets within the budget resolution without making any changes to Federal retirement annuities paid to participants in the Civil Service Retirement System, the Federal Employees Retirement System, and the Federal Employees Health Benefits Program." Instead, it was agreed

that the House Government Reform Committee "may write legislation that also achieves significant savings in discretionary programs."

Hence, the renewed interest in expanding the executive branch's authority to downsize the federal government at the expense of the legislative branch's prerogative to carefully review such proposals. It is ironic that such a proposal should be the subject of renewed interest at a time when one party controls the House of Representatives, the Senate, and the White House, and it is no longer possible to contend that the dreaded "gridlock of partisanship" prevents fair consideration of truly meritorious downsizing measures.

One wonders why policymakers and lawmakers who believe so devoutly that there are agencies in need of consolidation and abolition are unable to find opportunities to demonstrate the courage of their convictions and pursue such efforts through the usual legislative processes. For example, if agency X is clearly performing a function that agency Y is also performing, and agency X is not actually performing in a supplementary or complementary fashion, then there is no need for expanded downsizing authority. Lawmakers (and their allies in the executive branch) who believe that agency X is clearly superfluous should hold hearings, introduce the necessary abolition legislation, make common cause with similarly-minded authorizers and appropriators, and get on with their work. In fact, such downsizing proposals, if they are as meritorious as advertised, could even be passed in the House under suspension, a process that includes special expedited features that are also part of the expanded downsizing authority, including limited debate and a prohibition against amendments.

Instead, rather than working to advance their proposals, they insist that the merits of their downsizing ideas are self-evident and that the failure of them to be enacted into law owes itself entirely to a "cumbersome legislative process." If the merits of their downsizing proposals are so self-evident, why need they be placed on an accelerated fast-track that guarantees them precious floor time regardless of their content? Why must debate on downsizing proposals be limited through onerous time constraints? And why can the downsizing proposals not be amended?

Interestingly, the Heritage Foundation asserts that during the 104th Congress, which was a particularly partisan period of our nation's history, "more than 270 separate programs, offices, agencies, projects, and divisions were eliminated completely." During a similar period, the Clinton Administration claimed credit, through its National Performance Review, for the elimination of 250 programs and agencies. While conceding that there may be some double-counting for the accomplishments, both genuine and otherwise, of these zealous downsizers in the legislative and executive branches, it must also be acknowledged that such efforts were completed through the traditional legislative process, and not as a result of expanded downsizing authority. If the divided 104th Congress and the Clinton Administration could downsize the federal government, what is stopping

the united 108th Congress and the hard-charging Bush Administration from enacting into law downsizing proposals through the customary legislative process? Nothing, of course, other than the contents of those proposals. In fact, it could be said that the decision by Reagan Administration officials not to seek the renewal of the expanded downsizing authority in 1984 represents an implicit recognition that it was a perfect example of "overlapping and duplication," to use the words of the statute, of the traditional legislative process, and was therefore eminently deserving of abolition.

Federal employees and their unions know all too well how easy it is to downsize the federal government without resorting to expanded downsizing authority. The federal workforce has been arbitrarily hacked and whacked by hundreds of thousands of employees since 1993. The result of this indiscriminate downsizing is a self-inflicted "human capital crisis," with agencies experiencing severe shortages of federal employees in occupational category after category. It is unclear why expanding the executive branch's downsizing authority, in a way that is specifically designed to avoid careful consideration of its proposals, would somehow result in more thoughtful human capital planning.

Moreover, the Bush Administration is picking up where its predecessor left off with respect to the imposition of arbitrary reductions in the size of the federal workforce by forcing agencies to review for privatization, all too frequently with no public-private competition, at least 850,000 federal employee jobs over the next several years. Of course, as everyone should know by now, privatization doesn't result in a smaller federal government; rather, it results in a more unaccountable federal government (because the work of contractors is not tracked in the same way as work performed by federal employees), a less flexible federal government (because agencies can immediately alter a line, add a shift, or change the scope of work with federal employees, without the time-consuming negotiations and costly contract change orders and modifications insisted on by contractors), and a less reliable federal government (as evidenced by the bipartisan support for the recent contracting in of the airport screening function).

There is even less human capital planning associated with the Bush Administration's privatization effort than with the Clinton Administration's more straight-forward downsizing effort. In fact, Office of Federal Procurement Policy Administrator Angela Styles, the enforcer of the Bush Administration's infamous privatization quotas, according to GovExec.com, recently acknowledged in testimony before the Senate Armed Services Subcommittee on Readiness and Management Support that "Our concern has been that over the past two years, agencies have made decisions to directly convert (i.e., give work to contractors without competition) that have not been in the best interest of the taxpayer…We do not want that to continue." Of course, such abuses have occurred precisely because the Administration's privatization quotas explicitly encourage agencies to directly convert work performed by federal employees. Indeed, an agency's

failure to achieve these rigid quotas can result in a severe sanction: even more downsizing of that agency's in-house workforce.

Supporters of expanded downsizing authority, particularly those partial to the establishment of a downsizing commission, often cite the controversial base closure and realignment (BRAC) process for precedential value. However, BRAC, which, it must be noted, has been used to privatize as well as downsize, is not on point. BRAC was established after a consensus was formed, at the end of the Cold War, that the nation's defense infrastructure was in excess of our strategic needs. There has been no such cataclysmic event for non-DoD agencies, and, consequently, there is no comparable consensus for downsizing. Moreover, it is one thing to reduce and realign defense installations in accordance with a broadly-supported revision of America's strategic needs through expanded downsizing authority. It is another thing entirely to provide expanded downsizing authority to review functions in every single agency to an Administration that approaches almost all issues involving the role of the federal government and the importance of an independent civil service from a particular—and, for many, problematic—ideological perspective.

While often portrayed as a weapon, however superfluous itself, in the war on waste and inefficiency, expanded authority for downsizing could be used to expedite the elimination of programs and agencies out of favor with the incumbent Administration for ideological reasons. Per 5 U.S.C 901, the expanded downsizing authority could be used broadly to "abolish such agencies or functions…as may not be necessary for the efficient conduct of the Government." Indeed, Senator Sam Brownback (R-KS), who intends to reintroduce legislation that languished during the previous Congress to establish a downsizing commission has said that his bill would expand downsizing authority to abolish agencies that are "failed" or "irrelevant." To say that such determinations are subjective is to engage in understatement on a colossal scale. Clearly, however, it can be said that there are lawmakers and policymakers who want to use expanded downsizing authority—with its severe or even absolute limitations—on debate, amendments, and careful consideration, to revisit and perhaps even reverse the fights their predecessors started losing as long ago as the establishment of the New Deal.

In just a little more than two years, the current Administration has subjected the reliable and experienced middle- and working-class Americans who actually make the federal government work to one attack after another. As has been remarked ruefully in the federal government's worksites across the nation, "If the Bush Administration can't bust the unions of federal employees, or strip federal employees of their civil service protections against politics, discrimination, and favoritism, then it will privatize the jobs of federal employees." Given the current Administration's strong and unmistakable antagonism towards federal employees and the important work they perform, it should come as no surprise that AFGE strongly opposes any measure that would allow it expanded authority to pursue

its controversial agenda, especially when the traditional legislative process has proven, as recently as during the previous Administration, to allow for the enactment of a multitude of downsizing measures, both meritorious and otherwise.

As always, however, AFGE stands ready to work with you, Chairman Davis, on a variety of measures that would result in savings for taxpayers and innovations for all Americans who depend on the federal government for important services, including the reestablishment of labor-management partnerships, improved administration of service contracts, imposition of cost accounting standards on Federal Employee Health Benefits Program carriers, comprehensive reform of corporate welfare-style privatization, and abolition of wasteful privatization quotas that discourage the consideration of the consolidations and transfers sought by supporters of the expanded downsizing authority.

Thank you for this opportunity to testify today, Chairman Davis. I will be happy to respond to any questions. AFGE also looks forward to providing our comments on any related legislation that might be drafted subsequent to this hearing.